

Application No. 10/040,778  
Amendment dated March 3, 2004  
Reply to Office Action of December 5, 2003

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/040,778  
Applicant : McElrath *et al.*  
Filed : January 2, 2002  
TC/AU : 1733  
Examiner : Fischer

Confirmation No. 3682

Docket No. : 1997B029/5  
Customer No. : 23455

Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**RESPONSE TO NON-COMPLIANT AMENDMENT NOTICE**

Sir:

In response to the Office Action (herein Action) of April 19, 2004, Applicants request entry of the following amendments and remarks in the above-identified application.



UNITED STATES PATENT AND TRADEMARK OFFICE

10/040,778

COMMISSIONER FOR PATENT  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. BOX 1  
ALEXANDRIA, VA 22312-1010  
www.uspto.gov

Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

The amendment document filed on 3/3/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended to June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

THE FOLLOWING (CHECKED (X)) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amendment paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims).
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: claims 1-15 are missing

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/peac/dapp/opa/propnotice/officesflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given **ONE MONTH** from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this **ONE MONTH** time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a **TIME PERIOD** of **ONE MONTH** from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

*[Signature]*  
Legal Instruments Examiner (LIB)

571-272-1689  
Telephone No.

Rev. 10/03